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PART IV

Acts of the Dominion Legislature assented to by the Governor General

GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 23rd September, 1948

The following Acts of the Dominion Legislature received the assent of the Governor General on the 23rd September, 1948, and are hereby published for general information:—

ACT NO. LXII OF 1948

An Act to bring the share capital of the Reserve Bank of India into public ownership and to make consequential amendments in the Reserve Bank of India Act, 1934.

WHEREAS it is expedient to bring the share capital of the Reserve Bank of India into public ownership, to make provisions with respect to the relations between the Central Government and the Bank and to make consequential amendments in the Reserve Bank of India Act, 1934 (II of 1934);

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Reserve Bank (Transfer to Public Ownership) Act, 1948.

2. **Definitions.**—In this Act,—

(a) "appointed day" means such day as the Central Government may, by notification in the official Gazette, appoint;

(b) "Bank" means the Reserve Bank of India as constituted by the principal Act; and

(c) "principal Act" means the Reserve Bank of India Act, 1934 (II of 1934).

3. **Transfer of bank shares.**—(1) On the appointed day—

(a) all shares in the capital of the Bank shall by virtue of this Act be deemed to be transferred free of all trusts, liabilities and encumbrances to the Central Government; and

(b) as full compensation therefor, the Central Government shall issue to every person who, immediately before the appointed day, is registered as the holder of any such shares, an amount calculated at the rate of one hundred and eighteen rupees and ten annas per share, in promissory notes of the Central Government bearing interest at the rate of three *per centum per annum* repayable at par on such date as may be specified in this behalf by the Central Government:

Provided that where the amount so calculated is not an exact multiple of one hundred rupees the amount in excess of the nearest lower multiple of one hundred rupees shall be paid by cheque drawn on the Bank:

Provided further that in respect of any share obtained at par from the Central Government by any Director of the Bank in pursuance of sub-section (8) of section 4 of the principal Act as in force immediately before the appointed day, the said amount shall be calculated at the rate of one hundred rupees per share.

(2) Notwithstanding the transfer of shares effected by this section any shareholder who, immediately before the appointed day, is entitled to payment of dividend on the shares held by him shall be entitled to receive from the Bank—

(a) all dividends accruing due on his shares in respect of the year ending on the 30th day of June, 1948, or any preceding year remaining unpaid on the appointed day;

(b) dividends calculated at the rate of four rupees *per annum* per share in respect of the period from the 1st day of July, 1948, to the appointed day.

4. Vacation of office by existing office bearers.—On the appointed day any person who immediately before that day was holding office as a Director of the Central Board otherwise than as Governor or Deputy Governor or as a member of a Local Board of the Bank shall vacate his office, and the Central Board and the Local Boards of the Bank shall thereafter be constituted in the manner prescribed by sections 8 and 9 of the principal Act as amended by this Act.

5. Interim arrangements.—Pending the constitution of the Central Board under section 8 of the principal Act as amended by this Act, the Governor of the Bank, or in his absence a Deputy Governor of the Bank duly nominated by him in this behalf, may, subject to such restrictions and conditions as may from time to time be imposed by the Central Government, exercise all powers, and do all acts and things which may be exercised or done by the Bank.

6. Rule-making power.—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

(a) for the manner in which and the authority by which compensation shall be paid under section 8; and

(b) for the determination of persons to whom compensation is so payable.

7. Amendments to Act II of 1934.—As from the appointed day, the Reserve Bank of India Act, 1934 (II of 1934), shall be amended in the manner directed in the Schedule to this Act.

THE SCHEDULE

(See section 7)

Amendments to the Reserve Bank of India Act, 1934.

Section 2.—In clause (d), omit “silver”.

Chapter II—In the heading for “SHARE CAPITAL” substitute **CAPITAL**.

For section 4 substitute the following, namely:—

“4. **Capital of the Bank.**—The capital of the Bank shall be five crores of rupees”.

Omit section 5.

For section 7 substitute the following, namely:—

“7. **Management.**—(1) The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest.

(2) Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank.

(3) Save as otherwise provided in regulations made by the Central Board, the Governor shall have full powers to transact all the business of the Bank which may be transacted by the Central Board.”

Section 8.—

(i) for sub-section (1) substitute the following, namely:—

“(1) The Central Board shall consist of the following directors, namely:—

(a) a Governor and two Deputy Governors to be appointed by the Central Government;

(b) four Directors to be nominated by the Central Government, one from each of the four Local Boards as constituted by section 9;

(c) six Directors to be nominated by the Central Government; and

(d) one Government official to be nominated by the Central Government.”;

(ii) for the second paragraph of sub-section (4) substitute the following, namely:—

“A Director nominated under clause (c) of sub-section (1) shall, subject to the provisions of sub-section (6), hold office for a period of four years.”;

(iii) after sub-section (5), the following sub-sections shall be added, namely:—

“(6) Out of the six Directors first nominated under clause (c) of sub-section (1), two shall retire at the end of one year, two at the end of two years and the last two at the end of three years, the Directors so to retire being determined by lot.

(7) A retiring Director shall be eligible for re-nomination”.

For section 9 substitute the following, namely:—

“9. **Local Boards, their constitution and functions.**—(1) A Local Board shall be constituted for each of the four areas specified in the First Schedule and shall consist of five members to be appointed by the Central Government to represent, as far as possible, territorial and economic interests and the interests of co-operative and indigenous banks.

(2) The members of the Local Board shall elect from amongst themselves one person to be the chairman of the Board.

(3) The members of the Local Board shall hold office for a term of four years and shall be eligible for re-appointment.

(4) A Local Board shall advise the Central Board on such matters as may be generally or specifically referred to it and shall perform such duties as the Central Board may delegate to it."

Section 11.—

(i) in sub-section (1) for "nominated or elected", substitute "other" and omit the proviso;

(ii) for sub-section (2) substitute the following, namely:—

"(2) A Director nominated under clause (b) or clause (c) of sub-section (1) of section 8 shall cease to hold office if without leave from the Central Board he absents himself from three consecutive meetings of the Board convened under sub-section (1) of section 18.";

(iii) in sub-section (5) the words "appointment" and "or election" in two places shall be omitted.

Section 12.—

(i) omit sub-section (2);

(ii) in sub-section (3), omit the words "otherwise than by the occurrence of a vacancy in the office of a Director elected by the Local Board", and the word "qualified", and for the word "elected" substitute the word "other";

(iii) in sub-section (4), for the words commencing with "in the case of a nominated Director" and ending with the words "for the election of members of a Local Board" substitute the words "by the Central Government";

(iv) in sub-section (5), omit "or elected" and "subject to the proviso contained in sub-section (4)".

Omit sections 14, 15 and 16.

In clause (3) of section 17.—

(i) in sub-clause (a), for the word "sterling" substitute the words "foreign exchange";

(ii) in sub-clause (b), for the words "the United Kingdom" substitute the words "any country outside India which is a member of the International Monetary Fund";

(iii) omit sub-clause (c)

Section 18.—

(i) in the first paragraph, omit the words "or, where the powers and functions of the Central Board under this section have been delegated to a committee of the Central Board or to the Governor, in the opinion of such Committee or of the Governor, as the case may be,";

(ii) in clause (2) for the word "sterling" substitute the words "foreign exchange"; and

(iii) omit the proviso.

Section 24.—After the words "denominational values of" insert the words "two rupees,".

Section 33.—

(i) In sub-sections (1) and (2), for the words "sterling securities" substitute the words "foreign securities";

(ii) for sub-section (6), substitute the following, namely.—

"(6) For the purposes of this section, the foreign securities which may be held as part of the assets shall be securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely:—

(a) balances at the credit of the Issue Department with the bank which is the principal currency authority of that foreign country, or, if there is no such bank, with any bank incorporated in that foreign country;

(b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days; and

(c) Government securities of that foreign country maturing within five years".

Omit section 35

Section 39.—In sub-section (2) for the word "five" substitute the word "two".

For section 47, substitute the following, namely:—

"47. **Allocation of surplus profits.**—After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and super-annuation funds and such other contingencies as are usually provided for by bankers, the balance of the profits shall be paid to the Central Government."

Section 48.—Omit the proviso to sub-section (1) and omit sub-section (2).

For section 50 substitute the following, namely:—

"50. **Auditors.**—(1) Not less than two auditors shall be appointed, and their remuneration fixed, by the Central Government.

(2) The auditors shall hold office for such term not exceeding one year as the Central Government may fix while appointing them, and shall be eligible for re-appointment".

Section 51.—Omit the words "or such auditors as it thinks fit".

Section 52.—In sub-section (2), omit the words "to the shareholders or", "as the case may be" and "Any such report made to the shareholders shall be read, together with the report of the Central Board, at the annual general meeting".

Section 53.—Omit sub-section (3).

Omit sections 55 and 56.

Section 57.—Omit sub-section (2).

Section 58.—In sub-section (2), omit clauses (a) to (e) inclusive.

For the First Schedule substitute the following, namely:—

"THE FIRST SCHEDULE.

(See section 9)

1. THE WESTERN AREA shall consist of the Province of Bombay, the Central Provinces and Berar, Hyderabad, Baroda, Kutch, the United State of Kathiawar (Saurashtra), Kolhapur, the United State of Gwalior, Indore and Malwa (Madhya Bharat), Bhopal, the Acceding States administered by the Government of Bombay and the Acceding States administered by the Government of the Central Provinces and Berar.

2. THE EASTERN AREA shall consist of West Bengal, Bihar, Orissa, Assam, the Andaman and Nicobar Islands, Manipur, Cooch Behar, Tripura, Mayurbhanj, the United State of Vindhya Pradesh, the Khasi States, the Acceding States administered by the Government of Bihar and the Acceding States administered by the Government of Orissa.

3. THE NORTHERN AREA shall consist of the United Provinces, East Punjab, Delhi, Ajmer-Merwara, Panth Piploda, Kashmir, Himachal Pradesh, Patiala and the East Punjab States Union, Bilaspur, Tehri-Garhwal, Rampur, Banaras, the United State of Rajasthan, the United State of Matsya, Jaisalmer, Jodhpur, Bikaner, Jaipur, and the Acceding States administered by the Government of East Punjab.

4. THE SOUTHERN AREA shall consist of the Province of Madras, Coorg, Mysore, Cochin, Travancore, Sandur and the Acceding States administered by the Government of Madras.

Omit the Fourth Schedule.

Act No. LXIII of 1948.

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Factories Act, 1948.

(2) It extends to all the Provinces of India and shall extend to such Acceding States as, by their Instruments of Accession, have accepted the subject matter of this Act as a matter with respect to which the Dominion Legislature may make laws for such States.

(3) It shall come into force on the 1st day of April 1949.

2. **Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year;

(c) "child" means a person who has not completed his fifteenth year of age;

(d) "young person" means a person who is either a child or an adolescent;

(e) "day" means a period of twenty-four hours beginning at midnight;

(f) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

(g) "power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(h) "prime mover" means any engine, motor or other appliance which generates or otherwise provides power;

(i) "transmission machinery" means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;

(j) "machinery" includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;

(k) "manufacturing process" means any process for—

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) pumping oil, water or sewage, or

(iii) generating, transforming or transmitting power; or

(iv) printing by letterpress, lithography, photogravure or other similar work or book-binding, which is carried on by way of trade or for purposes of gain, or incidentally to another business so carried on; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;

(l) "worker" means a person employed, directly or through any agency, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process;

(m) "factory" means any premises including the precincts thereof—

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—

but does not include a mine subject to the operation of the Indian Mines Act, 1928 (IV of 1928), or a railway running shed;

(n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(o) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1913 (VII of 1913);

(p) "prescribed" means prescribed by rules made by the Provincial Government under this Act;

(q) "Provincial Government" includes the Government of an Acceding State to which this Act applies and all references to a province shall be construed as references also to an Acceding State;

(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay" and each of such periods is called a "shift".

3. References to time of day.—In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time.

Provided that for any area in which Indian Standard Time is not ordinarily observed the Provincial Government may make rules—

- (a) specifying the area,
- (b) defining the local mean time ordinarily observed therein, and
- (c) permitting such time to be observed in all or any of the factories situated in the area.

4. Power to declare departments to be separate factories.—The Provincial Government may, by order in writing, direct that different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

5. Power to exempt during public emergency.—In any case of public emergency the Provincial Government may, by notification in the official Gazette exempt any factory or class or description of factories from all or any of the provisions of this Act for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding three months at a time.

6. Approval, licensing and registration of factories.—(1) The Provincial Government may make rules—

(a) requiring the previous permission in writing of the Provincial Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories;

(b) requiring for the purpose of considering applications for such permission the submission of plans and specifications;

(c) prescribing the nature of such plans and specifications and by whom they shall be certified;

(d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences;

(e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.

(2) If on an application for permission referred to in clause (a) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the Provincial Government or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a Provincial Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the Provincial Government and to the Provincial Government in any other case.

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed of the addition of any plant or machinery.

7. Notice by occupier.—(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

(a) the name and situation of the factory,

(b) the name and address of the occupier,

(c) the address to which communications relating to the factory may be sent,

(d) the nature of the manufacturing process—

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and

(ii) to be carried on in the factory during the next twelve months in the case of all factories,

(e) the nature and quantity of power to be used

(f) the name of the manager of the factory for the purposes of this Act

(g) the number of workers likely to be employed in the factory

(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act,

(i) such other particulars as may be prescribed

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days before the date of the commencement of work

(4) Whenever a new manager is appointed, the occupier shall send to the Chief Inspector a written notice within seven days from the date on which such person takes over charge.

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act

CHAPTER II

THE INSPECTING STAFF

8. Inspectors.—(1) The Provincial Government may, by notification in the Official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit

(2) The Provincial Government may by notification in the Official Gazette appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act exercise the powers of an Inspector throughout the Province

(3) No person shall be appointed under sub-section (1), sub-section (2) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The Provincial Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one, the Provincial Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the Provincial Government may specify in this behalf.

9. Powers of Inspectors.—Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants, being persons in the service of the Government, or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

(b) make examination of the premises, plant and machinery, require the production of any prescribed register and any other document relating to the factory, and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;

(c) exercise such other powers as may be prescribed for carrying out the purposes of this Act:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

10. Certifying surgeons.—(1) The Provincial Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the Provincial Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the Provincial Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of young persons under this Act;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;

(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein,

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process;

(iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

Explanation.—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

CHAPTER III

HEALTH

11. Cleanliness.—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

(a) accumulations of dirt and refuse shall be removed daily by sweeping, or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—

(i) where they are painted or varnished, be repainted or revarnished at least once in every period of five years;

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed;

(iii) in any other case, be kept whitewashed or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months:

(e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the Provincial Government may by order exempt such factory or class or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

12. Disposal of wastes and effluents.—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The Provincial Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

13. Ventilation and temperature.—(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

(a) adequate ventilation by the circulation of fresh air, and

(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health;—
and in particular,—

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The Provincial Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the Provincial Government that in any factory or class or description of factories excessively high temperatures can be reduced by such methods as whitewashing, spraying or insulating and screening outside wall or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air-space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of these or other methods as shall be adopted in the factory.

14. Dust and fume.—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

15. Artificial humidification.—(1) In respect of all factories in which the humidity of the air is artificially increased, the Provincial Government may make rules,—

(a) prescribing standards of humidification;

(b) regulating the methods used for artificially increasing the humidity of the air;

(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before specified date.

16. Overcrowding.—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act at least three hundred and fifty cubic feet and of a factory built after the commencement of this Act at least five hundred cubic feet of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt subject to such conditions if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

17. Lighting.—(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of section 18 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

(a) glare, either directly from a source of light or by reflection, from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eyestrain or the risk of accident to any worker.

(4) The Provincial Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

18. Drinking water.—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief-Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the Provincial Government may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

19. Latrines and urinals.—(1) In every factory—

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The Provincial Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

20. Spittoons.—(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The Provincial Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

CHAPTER IV

SAFETY

21. Fencing of machinery.—(1) In every factory the following, namely,—

- (i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;
- (ii) the headrace and tailrace of every water-wheel and water turbine;
- (iii) any part of a stock-bar which projects beyond the head stock of a lathe; and
- (iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely,—
 - (a) every part of an electric generator, a motor or rotary convertor;
 - (b) every part of transmission machinery; and
 - (c) every dangerous part of any other machinery,

shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use:

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of section 22.

(2) The Provincial Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

22. Work on or near machinery in motion.—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 21 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt;

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of the machinery while that part is in motion, or to work between moving parts, or between fixed and moving parts, of any machinery which is in motion.

(3) The Provincial Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

23. Employment of young persons on dangerous machines.—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the Provincial Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

24. Striking gear and devices for cutting off power.—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to work-rooms in which electricity is used as power.

25. Self-acting machines.—No traversing part of a self-acting machine in any factory and no material carried thereon shall if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine.

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

26. Casing of new machinery.—(1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The Provincial Government may make rules applying the provisions of this section to any particular machine or class or description of machines and specifying the types of safeguards to be provided thereon.

27. Prohibition of employment of women and children near cotton-openers.—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

28. Hoists and lifts.—(1) In every factory—

(a) every hoist and lift shall be—

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing,

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1), upon such conditions for ensuring safety as he may think fit to impose.

(4) The Provincial Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirements shall not apply to such class or description of hoist or lift.

29. Cranes and other lifting machinery.—(1) The following provisions shall apply in respect of cranes and all other lifting machinery (other than hoists and lifts) in any factory, namely:—

(a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be—

(i) of good construction, sound material and adequate strength,—

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) no such machinery shall be loaded beyond the safe working load which shall be plainly inscribed thereon;

(c) while any person is employed or working on or near the wheel track or a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The Provincial Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories—

(a) prescribing requirements to be complied with in addition to those set out in this section;

(b) exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable.

30. Revolving machinery.—(1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

31. Pressure plant.—(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The Provincial Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories

32. Floors, stairs, and means of access.—In every factory—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained, and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

33. Pits, sumps, openings in floors, etc.—In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced

(2) The Provincial Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

34. Excessive weights.—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The Provincial Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process

35. Protection of eyes.—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light,—the Provincial Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

36. Precautions against dangerous fumes.—(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory any boiler furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The Provincial Government may make rules prescribing the minimum dimensions of the manholes referred to in sub-section (1), and may by order in writing exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

37. Explosive or inflammable dust, gas, etc.—(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

(a) effective enclosure of the plant or machinery used in the process,

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

(c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:—

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced:

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding or brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Provincial Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

38. Precautions in case of fire.—(1) Every factory shall be provided with such means of escape in case of fire as may be prescribed, and if it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing specifying the measures which, in his opinion should be adopted to bring the factory into conformity with the provisions of this section and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every factory the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards.

(3) In every factory, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every factory effective and clearly audible means of giving warning in case of fire to every person employed in the factory.

(5) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of a factory.

(6) Effective measures shall be taken to ensure that in every factory—

(a) wherein more than twenty workers are ordinarily employed in any place above the ground floor, or

(b) wherein explosive or highly inflammable materials are used or stored,

all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) The Provincial Government may make rules prescribing, in respect of any factory or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

39. Power to require specifications of defective parts or tests of stability.—If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

40. Safety of buildings and machinery.—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

41. Power to make rules to supplement this Chapter.—The Provincial Government may make rules requiring the provision in any factory or in any class or description of factories of such further devices for securing the safety of persons employed therein as it may deem necessary.

CHAPTER V

WELFARE

42. Washing facilities.—(1) In every factory—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Provincial Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

43. Facilities for storing and drying clothing.—The Provincial Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

44. Facilities for sitting.—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The Provincial Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

45. First-aid appliances.—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed in the factory.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1), and all such boxes and cupboards shall be kept in the charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the factory.

(3) In every factory wherein more than five hundred workers are employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as many be prescribed.

46. Canteens.—(1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which such canteen shall be provided;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
- (c) the foodstuffs to be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;
- (e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

47. Shelters, rest rooms and lunch rooms.—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The Provincial Government may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(b) by notification in the official Gazette, exempt any factory or class or description of factories from the requirements of this section.

48. Creches.—(1) In every factory wherein more than fifty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The Provincial Government may make rules—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any factory of free milk or refreshment of both for such children;

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

49. Welfare officers.—(1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The Provincial Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

50. Power to make rules to supplement this Chapter.—The Provincial Government may make rules—

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

CHAPTER VI

WORKING HOURS OF ADULTS

51. Weekly hours.—No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

52. Weekly holidays.—(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless—

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,—

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

53. Compensatory holidays.—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

54. Daily hours.—Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day.

55. Intervals for rest.—The period of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

56. Spreadover.—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spreadover to twelve hours.

57. Night shifts.—Where a worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

58. Prohibition of overlapping shifts.—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Provincial Government may, subject to such conditions as may be prescribed, make rules exempting any factory or class or description of factories from the provisions of sub-section (1).

59. Extra wages for overtime.—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) Where any workers in a factory are paid on a piece rate basis, the Provincial Government, in consultation with the employer concerned, and the representatives of the workers shall, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus.

(4) The Provincial Government may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

60. Restriction on double employment.—No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

61. Notice of periods of work for adults.—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, 55 and 56.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The Provincial Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

62. Register of adult workers.—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing—

- (a) the name of each adult worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The Provincial Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

63. Hours of work to correspond with notice under section 61 and register under section 62.—No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

64. Power to make exempting rules.—(1) The Provincial Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined.

(2) The Provincial Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56;

(d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day, from the provisions of sections 51, 52, 54, 55 and 56;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 52;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons from the provisions of section 52;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 52.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the Provincial Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section, the Provincial Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime—

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the total number of hours of overtime work shall not exceed fifty for any one quarter;

Explanation.—“Quarter” means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October;

(iii) the spreadover inclusive of intervals for rest shall not exceed twelve hours in any one day;

Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in section 54 may be exceeded in order to facilitate the change of shifts.

(5) Rules made under this section shall remain in force for not more than three years.

65. Power to make exempting orders.—(1) Where the Provincial Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The Provincial Government or, subject to the control of the Provincial Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 64.

(4) No factory shall be exempted under sub-section (2) for a period or periods exceeding in the aggregate three months in any year.

66. Further restrictions on employment of women.—(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be employed in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that the Provincial Government may, by notification in the official Gazette, in respect of any class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.

(2) The Provincial Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

CHAPTER VII

EMPLOYMENT OF YOUNG PERSONS

67. Prohibition of employment of young children.—No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

68. Non-adult workers to carry tokens.—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

(a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

69. Certificates of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work.

(b) a certificate of fitness to work in a factory as an adult if he is satisfied that the young person has completed his fifteenth year and is fit for a full day's work in a factory.

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

70. Effect of certificate of fitness granted to adolescent.—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69 and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapters VI and VIII.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act.

71. Working hours for children.—(1) No child shall be employed or permitted to work, in any factory—

(a) for more than four and a half hours in any day;

(b) between the hours of 7 P.M. and 6 A.M.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers, and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

72. Notice of periods of work for children.—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

73. Register of child workers.—(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

- (a) the name of each child worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted, and

(e) the number of his certificate of fitness granted under section 69.

(2) The Provincial Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

74. Hours of work to correspond with notice under section 72 and register under section 73.—No child shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory

75. Power to require medical examination.—Where an Inspector is of opinion—

(a) that any person working in a factory without a certificate of fitness is a young person, or

(b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,—

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

76. Power to make rules.—The Provincial Government may make rules—

(a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

(c) regulating the procedure of certifying surgeons under this Chapter;

(d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

77. Certain other provisions of law not barred.—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVI of 1938).

CHAPTER VIII

LEAVE WITH WAGES

78. Application of Chapter.—(1) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter the worker shall be entitled only to such longer leave.

Explanation.—For the purpose of this Chapter leave shall not, except as provided in section 79, include weekly holidays or holidays for festivals or other similar occasions.

(2) The provisions of this Chapter shall not apply to any workshop of a Federal Railway.

79. Annual leave with wages.—(1) Every worker who has completed a period of twelve months continuous service in a factory shall be allowed during the subsequent period of twelve months' leave with wages for a number of days calculated at the rate of—

(i) if an adult, one day for every twenty days of work performed by him during the previous period of twelve months subject to a minimum of ten days, and

(ii) if a child, one day for every fifteen days of work performed by him during the previous period of twelve months subject to a minimum of fourteen days:

Provided that a period of leave shall be inclusive of any holiday which may occur during such period:

Provided further that where the employment of a worker who has completed a period of four months' continuous service in a factory is terminated before he has completed a period of twelve months' continuous service, he shall be deemed to have become entitled to leave for the number of days which bears to the number of days specified in this sub-section the same proportion as the period of his continuous service bears to the continuous service of twelve months and the occupier of the factory shall pay to him the amount payable under section 80 in respect of the leave to which he is deemed to have become entitled.

(3) If a worker does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be carried forward to a succeeding period shall not exceed fifteen in the case of an adult or twenty in the case of a child.

Provided further that a worker who has applied for leave with wages but has not been given such leave in accordance with any scheme drawn up under sub-sections (4) and (5), shall be entitled to carry forward the unavailed leave without any limit.

(3) A worker may in any such period of twelve months apply in writing to the manager of the factory, not less than fifteen full working days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof, allowable to him during that period under sub-sections (1) and (2).

Provided that the number of instalments in which the leave is proposed to be taken shall not exceed three:

Provided further that the application shall be made not less than thirty full working days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947).

(4) If, for the purpose of ensuring the continuity of work in a factory, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947) or a similar committee constituted under any other Act, or if there is no such Works Committee or a similar committee in the factory the occupier or the manager of the factory in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the leave allowable under this section may be regulated.

(5) A scheme lodged under sub-section (4) shall be posted in convenient places in the factory and shall be in force for a period of twelve months from the date on which it is lodged with the Chief Inspector, and may thereafter be renewed, with or without modification, for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar committee or, as the case may be, by the manager of the factory in agreement with the representatives of the workers as specified in sub-section (4).

(6) An application for leave which does not contravene the provisions of sub-section (3) shall not be refused unless the refusal is in accordance with a scheme for the time being in operation under sub-sections (1) and (5).

(7) If a worker entitled to leave under sub-sections (1) and (2) is discharged from the factory before he has taken the entire leave to which he is entitled, or if, having applied for and having not been granted such leave, he quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

Explanation 1.—For the purposes of this section a worker shall be deemed to have completed a period of continuous service in a factory, notwithstanding any interruption in service during that period brought about by—

(i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of the period, or

- (ii) a strike which is not an illegal strike or a lock out, or
- (iii) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or
- (iv) leave admissible or granted under any other law.

Explanation 2.—"Authorised leave" shall include any casual absence due to any reasonable cause:

Provided that the worker within a week from the commencement of the absence gives the reasons for the absence in writing to the manager of the factory, and may include periods of unauthorised leave, not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but shall not include any weekly holiday allowed under section 52 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—"Illegal strike" means a strike which is illegal within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) or of any other law for the time being in force relating to industrial disputes.

80. Wages during leave period.—For the leave allowed to him under section 79 a worker shall be paid at a rate equal to the daily average of his total full-time earnings, exclusive of any overtime earnings and bonus, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the sale, by the employer, of foodgrains and other articles at concessional rates for the days on which he worked during the month immediately preceding his leave.

81. Payment in advance in certain cases.—A worker who has been allowed leave for not less than four days in the case of an adult and five days in the case of a child under section 79 shall, before his leave begins, be paid the wages due for the period of the leave allowed.

82. Power of Inspector to act for worker.—Any Inspector may institute proceedings on behalf of any workers to recover any sum required to be paid by an employer under this Chapter which the employer has not paid.

83. Power to make rules.—The Provincial Government may prescribe the keeping by managers of factories of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by *Inspectors

84. Power to exempt factories.—Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision, it may, by written order, exempt the factory from all or any of the provisions of this Chapter, subject to such conditions as may be specified in the order.

CHAPTER IX

SPECIAL PROVISIONS

85. Power to apply the Act to certain premises.—(1) The Provincial Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on notwithstanding that—

- (i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

Explanation.—For the purposes of this section, "owner" shall include a lessee or mortgagee with possession of the premises.

86. Power to exempt public institutions.—The Provincial Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training or reformation, from all or any of the provisions of this Act:

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

87. Dangerous operations.—Where the Provincial Government is of opinion that any operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the operation is carried on—

- (a) specifying the operation and declaring it to be dangerous;
- (b) prohibiting or restricting the employment of women, adolescents or children in the operation;
- (c) providing for the periodical medical examination of persons employed, or seeking to be employed, in the operation, and prohibiting the employment of persons not certified as fit for such employment;
- (d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on;
- (e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation.

88. Notice of certain accidents.—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

89. Notice of certain diseases.—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner

to be, suffering from any disease specified in the Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating—

(a) the name and full postal address of the patient,

(b) the disease from which he believes the patient to be suffering, and

(c) the name and address of the factory in which the patient is, or was last, employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a certifying surgeon or otherwise, that the person is suffering from a disease specified in the Schedule, he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land-revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

90. Power to direct enquiry into cases of accident or disease.—(1) The Provincial Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1860).

(3) The person holding an inquiry under this section shall make a report to the Provincial Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The Provincial Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The Provincial Government may make rules for regulating the procedure at inquiries under this section.

91. Power to take samples.—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being—

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

CHAPTER X

PENALTIES AND PROCEDURE

92. General penalty for offences.—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

93. Liability of owner of premises in certain circumstances.—Where in any premises separate buildings, or in any building separate parts of the building or separate parts of any room therein are leased or occupied by different persons in such a manner as to constitute separate factories, the owner of the premises or building, as the case may be, shall be liable, in the stead of the occupier of the factory for any contravention in, or in respect of, any part of the premises or building which is used as a factory, of—

(a) the provisions of Chapter III or of any rules made thereunder;

(b) the provisions of Chapter IV or of any rules made thereunder, except in so far as they relate to plant or machinery belonging to or supplied by the occupier of the factory;

(c) the provisions of Chapter V or of any rules made thereunder, and in computing for the purposes of any of the provisions mentioned in this clause the number of workers employed, the whole of the premises or building, as the case may be, shall be deemed to be a single factory:

Provided that—

(i) the provisions of this section shall not apply to, or in respect of, any building or room in the sole occupation of the occupier of a factory;

(ii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to the cleanliness of sanitary conveniences only when those conveniences are used by workers of more than one occupier;

(iii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to hoists and lifts, and means of escape and safety precautions in case of fire, only in so far as the said provisions relate to things under his control.

94. Enhanced penalty after previous conviction.—If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

95. Penalty for obstructing Inspector.—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

96. Penalty for wrongfully disclosing results of analysis under section 91.—Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

97. Offences by workers.—(1) Subject to the provisions of section 111, if a worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, shall be punishable with fine which may extend to twenty rupees.

(2) Where a worker is convicted of an offence punishable under sub-section 1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

98. Penalty for using false certificate of fitness.—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

99. Penalty for permitting double employment of child.—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

100. Determination of occupier in certain cases.—(1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the firm or association may give notice to the Inspector that has nominated one of its members, residing within the Provinces of India, to be the occupier of the factory for the purposes of this Charter, and such

individual shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case within the Provinces of India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

(3) Where the owner of any premises or building referred to in section 95 is not an individual, the provisions of this section shall apply to such owner as they apply to occupiers of factories who are not individuals.

101. Exemption of occupier or manager from liability in certain cases.—

Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance.—

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor.

Provided further that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

102. Power of Court to make orders.—(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the Court may, if it thinks fit and

on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

103. Presumption as to employment.—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

104. Onus as to age.—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

105. Cognizance of offences.—(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

106. Limitation of prosecutions.—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER XI

SUPPLEMENTAL

107. Appeals.—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the Provincial Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the Provincial Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be

appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed:

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the Provincial Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

108. Display of notices.—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made hereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

109. Service of notices.—The Provincial Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

110. Returns.—The Provincial Government may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

111. Obligations of workers.—(1) No worker in a factory—

(a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

(b) shall wilfully and without reasonable cause do anything likely to endanger himself or others; and

(c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

112. General power to make rules.—The Provincial Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

113. Powers of Centre to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of the provisions of this Act.

114. No charge for facilities and conveniences.—Subject to the provisions of section 46 no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipments or appliances to be supplied by the occupier under the provisions of this Act.

115. Publication of rules.—All rules made under this Act shall be published in the official Gazette, and shall be subject to the condition of previous publication; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than three months from the date on which the draft of the proposed rules was published.

116. Application of Act to Government factories.—Unless otherwise provided this Act shall apply to factories belonging to the Central or any Provincial Government.

117. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall be against any person for anything which is in good faith done or intended to be done under this Act.

118. Restriction on disclosure of information.—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of, this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

119. Amendment of section 3, Act XXVI of 1938.—In sub-section (3) of section 3 of the Employment of Children Act, 1938, for the word "twelfth" the word "fourteenth" shall be substituted.

120. Repeal and savings.—The enactments set out in the Table appended to this section are hereby repealed:

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.

TABLE
Enactments repealed

Year	No.	Short title
1934 . . .	XXV . . .	The Factories Act, 1934.
1944 . . .	XIV . . .	The Factories (Amendment) Act, 1944.
1945 . . .	III . . .	The Factories (Amendment) Act, 1945.
1946 . . .	X . . .	The Factories (Amendment) Act, 1946.
1947 . . .	V . . .	The Factories (Amendment) Act, 1947.

THE SCHEDULE

(See sections 89 and 90)

List of Notifiable Diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetra-ethyl poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chronic ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances;
 - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.

Act No. LXIV of 1948.

An Act to amend the Essential Supplies (Temporary Powers) Act, 1946.

WHEREAS it is expedient to amend the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Essential Supplies (Temporary Powers) (Amendment) Act, 1948.

2. Amendment of section 7, Act XXIV of 1946.—For the proviso to subsection (1) of section 7 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the following shall be substituted, namely :—

“ Provided that—”

(a) where the contravention is of an Order relating to cotton textiles, the Court shall—

(i) sentence any person convicted of such contravention to imprisonment for a term which may extend to three years and may, in addition, impose a sentence of fine, and

(ii) direct that any property in respect of which the Order has been contravened or such part of it as the Court may deem fit shall be forfeited to His Majesty ; and

(b) where the contravention is of an Order relating to foodstuffs which contains an express provision in this behalf, the Court shall direct that any property in respect of which the Order has been contravened shall be forfeited to His Majesty, unless for reasons to be recorded in writing it is of opinion that the direction should not be made in respect of the whole, or, as the case may be, a part, of the property."

Act No. LXV of 1948.

An Act further to amend the Indian Railways Act, 1890.

WHEREAS it is expedient further to amend the Indian Railways Act, 1890 (IX of 1890), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Railways (Second Amendment) Act, 1948.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Amendment of Chapter V, Act IX of 1890.—(1) In Chapter V of the Indian Railways Act, 1890 (hereinafter referred to as the said Act), section 46 shall be omitted, and sections 41, 42, 42A, 42B, 43, 44, 45 and 46A shall be renumbered respectively as sections 26, 27, 28, 29, 30, 31, 32 and 33.

(2) In sub-section (3) of section 27, as so renumbered, for the figures and letter "42A" the figures "28" shall be substituted.

(3) In section 28 as so renumbered, sub-section (2) and the figure and brackets "(1)" in sub-section (1) shall be omitted.

3. Insertion of new heading and new sections 34 to 480 in Act IX of 1890.—After section 33, as renumbered by section 2, the following heading and sections shall be inserted, namely:—

'RAILWAY RATES TRIBUNAL'

34. Constitution of the Tribunal.—(1) There shall be a Tribunal, called the Railway Rates Tribunal, for the purpose of discharging the functions hereinafter specified in this Chapter.

(2) The Tribunal shall consist of a President, and two other members, appointed by the Central Government; and they shall hold office for such periods and on such terms and conditions as the Central Government may, by general order, prescribe.

(3) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been, or is qualified for appointment as, a Judge of a High Court.

35. Constitution of panels of assessors.—(1) The Central Government shall constitute two panels of assessors namely, (a) the trade, industry and agriculture panel; and (b) the railway panel.

(2) The trade, industry and agriculture panel shall consist of not more than sixty persons chosen by the Central Government; one-third of the number chosen shall represent trade, one-third industry, and one-third agriculture, the representatives in each group being chosen after consulting such associations representing trade, industry or agriculture (as the case may be), as the Central Government may consider necessary.

(3) The railway panel shall consist of not more than thirty persons with railway experience, chosen by the Central Government.

(4) Any appointment to either panel shall be notified in the official Gazette; and the notification shall specify the term for which the appointment is made. The term shall not exceed two years, but the member shall be eligible for re-appointment after the expiry of his term.

86. *Staff*.—The Tribunal may, with the sanction of the Central Government, appoint such staff, and on such terms and conditions, as the Central Government may determine.

87. *Headquarters*.—The headquarters of the Tribunal shall be at such place as the Central Government may fix.

88. *Sittings of the Tribunal*.—The Tribunal may sit at such place or places as it may find convenient for the transaction of business.

89. *Jurisdiction*.—For the purpose of exercising the jurisdiction conferred on it by this Chapter, the Tribunal may pass such interim and final orders as the circumstances may require, including orders for the payment, subject to the provisions of this Chapter, of costs; and it shall be the duty of the Central Government, the Provincial Government or the Government of an Acceding State (as the case may be) on whom any obligation is imposed by any such order, to carry it out.

40. *Powers of the Tribunal*.—The Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses and shall be deemed to be a Civil Court for all the purposes of section 193 and Chapter XXXV of the Code of Criminal Procedure, 1898, and any reference to the presiding officer of a Court shall be deemed to include a reference to the President of the Tribunal.

41. *Complaints against a railway administration*.—(1) Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations—

- (a) is or are contravening the provisions of section 28; or
- (b) is or are charging—
 - (i) unreasonable rates, or
 - (ii) rates which are unreasonable by reason of any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter; or
- (c) is or are levying unreasonable charges excluding terminal charges which are, or may hereafter be, standardised; or
- (d) is or are unreasonably refusing to quote a new station to station rate; or
- (e) has or have unreasonably placed a commodity in a higher class

shall be heard and decided by the Tribunal in accordance with the provisions of this Chapter.

(2) In the case of a complaint under clause (d) of sub-section (1), the Tribunal may fix a new station to station rate.

42. *Power to alter rates or reclassify commodities*.—(1) The Tribunal alone shall have power to reclassify any commodity in a higher class, but such power shall not be exercised except on the application of the Central Government.

(2) The Central Government alone shall have power—

- (a) to increase or reduce the level of class rates, schedule rates and terminal and other charges;
- (b) to classify any commodity which has not been classified before.

(3) The Tribunal as well as the Central Government shall have power to re-classify any commodity in a lower class.

43. *Tribunal to decide matters with aid of assessors.*—(1) All matters shall be decided by the Tribunal with the aid of assessors.

(2) Where, in the opinion of the President of the Tribunal, any matter *prima facie* appears to involve a question of principle, it shall be decided by a Full Bench consisting of the President and the other two members, with the aid of not less than four assessors, selected by the President in equal numbers from the trade, industry and agriculture panel and from the railway panel.

(3) All other matters may be decided by a single member of the Tribunal with the aid of not more than four assessors selected by the President of the Tribunal in equal numbers from the trade, industry and agriculture panel and from the railway panel:

Provided that the President may, in his discretion, direct that any such matter shall be decided by the Full Bench.

Provided further that where a single member of the Tribunal hearing any matter considers that it involves a question of principle, he shall refer the matter to the President who shall direct that it shall be decided by the Full Bench in the manner referred to in sub-section (2).

(4) It shall be the duty of each assessor to advise the Tribunal and state his opinion on all questions arising in the matters before the Tribunal, but the Tribunal shall not be bound to act on the advice, or to conform to the opinion, of all or any of the assessors.

44. *Procedure.*—(1) With the approval of the Central Government, the Tribunal may make rules regarding its practice and procedure and generally for the effective discharge of its functions under this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the preparation of panels of assessors;

(b) the terms and conditions of the appointment of assessors;

(c) the award of costs by the Tribunal;

(d) the reference of any question to a member or officer of the Tribunal or any other person appointed by the Tribunal, for report after holding a local inquiry;

(e) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly authorised in writing, or by a legal practitioner;

(f) the disposal by the Tribunal of any proceedings before it, notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal or as assessors;

(g) a scale of fees for and in connection with the proceedings before the Tribunal.

(3) The Central Government shall give to the Tribunal such assistance as it may require, and shall also place at its disposal any information in the possession of the Central Government which that Government may think relevant to the matter before the Tribunal.

(4) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

(5) The Tribunal shall make annually a report to the Central Government of its proceedings under this Chapter.

45. *Bur of jurisdiction of the Tribunal.*—Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of scales of charges levied by a railway administration for the carriage of passengers and their luggage, parcels, military traffic and traffic in railway materials and stores, and demurrage charges, except on a reference made to the Tribunal by the Central Government.

46. *Alteration and cancellation of certain station to station rates.*—Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any merchandise by goods train,—

(i) quote a new station to station rate; or

(ii) increase or reduce an existing station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal; or

(iii) after due notice in the manner prescribed by the Central Government, cancel any station to station rate which has not been introduced in compliance with an order made by the Tribunal, unless the Tribunal has, after notice has been given as aforesaid, granted an injunction against such cancellation; or

(iv) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal.

46A. *Decision of the Tribunal.*—The decision of the Tribunal shall be by a majority of the members sitting and shall be final:

Provided that where a single member of the Tribunal has heard and decided any matter, he may, in his discretion, give leave to any party to appeal to the Full Bench; and if an appeal is filed in pursuance of such leave, the decision of the Full Bench or of a majority of the members thereof, as the case may be, shall be final.

46B. *Execution of orders of the Tribunal.*—The Tribunal may transmit any order made by it to a Civil Court having local jurisdiction; and such Civil Court shall execute the order as if it were a decree.

46C. *Definitions.*—In this Chapter, unless there is anything repugnant in the subject or context,—

(a) "classification" means the grouping of commodities into classes as notified in the Indian Railway Conference Association's Goods Tariff and as in force at the commencement of the Indian Railways (Second Amendment) Act, 1948, for the purpose of determining the rate to be charged;

(b) "class rate" means a rate fixed according to the class given to a commodity in the classification of goods;

(c) "commodity" includes livestock;

(d) "demurrage" means the charge levied after the expiry of the free time allowed for loading or unloading a wagon;

(e) "parcel" means any package or merchandise or other goods entrusted for carriage by passenger or parcels train;

(f) "schedule rate" means a rate lower than the maximum or class rate applied on a commodity basis;

(g) "station to station rate" means a special reduced rate applicable to a specific commodity booked between two specified stations.'

K. Y. BHANDARKAR,
Secy. to the Govt. of India.

